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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

REFLEX MEDIA, INC., a Nevada
 Corporation,

Plaintiff,

v.

AARON WALLACE, an individual, *et al.*,

Defendant.

Case No. 2:18-cv-02423-RFB-BNW

**STIPULATION AND JOINT MOTION
 TO MODIFY THE SCHEDULING
 ORDER AND TO CONTINUE
 DISCOVERY DEADLINES AND
 RELATED PRE-TRIAL DATES**

**(FIRST JOINTLY REQUESTED
 MODIFICATION TO SCHEDULING
 ORDER (ECF NO. 216))**

Plaintiff Reflex Media, Inc. (***“Reflex”***) and Defendant Aaron Wallace (***“Wallace”***) (jointly referred to as ***“Parties”***), pursuant to Fed. R. Civ. P. 16(b)(4), L.R. 16-1 and L.R. 26-3, respectfully submit this Stipulation and Joint Motion to Modify the Scheduling Order and to Continue Discovery Deadlines and Related Pre-Trial Dates. This is the Parties' first joint request to modify the current Scheduling Order (***“Scheduling Order”***) (ECF No. 216).¹

I. INTRODUCTION

By this stipulation and joint motion, the Parties request that the Court modify the scheduling order to continue the discovery cut-off, dispositive motion deadline and related pre-trial dates. Good cause exists to grant the continuance, as the parties have been actively preparing their respective cases and otherwise advanced this litigation. Reflex, however, has moved to amend its complaint to add new parties (ECF No. 224), and that motion is now fully briefed and awaiting the Court’s decision. The parties anticipate that if that motion is granted additional time will be needed to take discovery on the new parties and otherwise include them in the litigation. Moreover, given the motion practice, the Parties will need additional time to complete the discovery between them. Under the current Scheduling Order, however, the Parties are fast approaching the deadlines. To accommodate the pending motion to amend and the completion of discovery, the Parties seek to modify the Scheduling Order.

II. RELEVANT PROCEDURAL HISTORY

A. THE STATUS OF THE OPERATIVE PLEADINGS

Reflex's operative complaint—the Second Amended Complaint— was filed on February 26, 2019.² On March 11, 2020, jurisdictional discovery was ordered in this case.

¹ Long prior to the issuance of the current Scheduling Order (on January 15, 2019), Reflex filed for an extension of time on discovery to locate additional defendants (ECF No. 64). On May 14, 2020, Reflex ask to extend jurisdictional discovery deadlines (the parties at that time were briefing the threshold issue of the Court’s jurisdiction) (ECF. 168).

² The Original Complaint was filed on August 16, 2018 (ECF No. 1). The First Amended Complaint was filed on October 16, 2018 (ECF No. 33). The case was transferred from the United States District Court for Northern California on December 26, 2018 (ECF No. 62).

1 (ECF No. 164).

2 Discovery in this case, except for jurisdictional discovery, had previously been
3 stayed until the Court's ruling on jurisdiction on January 22, 2021 (ECF No. 213). On
4 January 22, 2021, this Court moved this case into general discovery and denied Reflex's
5 first Motion to Amend (ECF No. 198) without prejudice, allowing Reflex additional time
6 to conduct discovery and file another motion to amend. (ECF No. 213 at pp. 2–3). The
7 Parties were ordered to submit a Proposed Joint Discovery Plan and Scheduling Order. *Id.*
8 The Parties filed the Joint Discovery Plan and Scheduling Order on February 5, 2021 (ECF
9 No. 215). The Court approved the current Scheduling Order on February 8, 2021 and set
10 forth therein the discovery cut-off dates and related pre-trial deadlines for dispositive
11 motion practice and pre-trial filings.

12 On February 5, 2021, Wallace filed his Motion for Leave to File Supplemental
13 Motion to Dismiss and Stay Discovery Pending Resolution of the Motion(s) (ECF No.
14 214). This motion was denied on July 17, 2021 (ECF No. 225). On July 16, 2021, Reflex
15 filed its Motion for Leave to File Third Amended Complaint (the “*Motion for Leave to*
16 *Amend*”) (ECF No. 224); Wallace opposed that motion on July 30, 2021 (ECF No. 226),
17 and Reflex replied on August 6, 2021 (ECF No. 227). The parties await the Court's ruling
18 on the Motion for Leave to Amend. The Motion for Leave to Amend requests to add two
19 additional parties and, if granted, Reflex will need additional time to translate the Third
20 Amended Complaint (one new party is located in Pakistan) and serve the additional parties.

21 **B. THE STATUS OF DISCOVERY**

22 Pursuant to L.R. 26-3, the Parties provide the following recitation regarding
23 discovery in this matter. The Parties, while litigating issues related to the pleadings, have
24 also been engaged in discovery. Reflex (on February 22, 2021) and Wallace (on February
25 23, 2021) exchanged their initial disclosures. Reflex sent its First Set of Requests for
26 Production to Wallace on July 20, 2021. On September 9, 2021, Wallace responded to
27 Reflex's First Set of Requests for Production.

28 The Parties anticipate engaging in more discovery once the Court rules on the

1 Motion for Leave to Amend. This discovery will include further written discovery, fact
2 witness depositions, PMK depositions, and expert discovery and depositions. The
3 investigation and naming of new parties as well as the attendant motion practice related to
4 amending the complaints, however, has delayed the Parties' completion of discovery. The
5 likelihood that more parties will be added to the complaint also necessitates an extension
6 of the deadlines so that the parties may serve the new defendants, oppose any related
7 motion practice thereto, and begin discovery against the new parties.

8 **III. GOOD CAUSE EXISTS TO MODIFY THE SCHEDULING ORDER**

9 Rule 16 of the Federal Rules of Civil Procedure provides that a scheduling order
10 may be modified “for good cause and with the judge’s consent.” Fed. R. Civ. P. 16(b)(4).
11 The “good cause” standard looks to the “reasonable diligence” of the moving parties. *Noyes*
12 *v. Kelly Services*, 488 F.3d 1163, 1174, n.6 (9th Cir. 2007). The Parties agree and submit
13 that good cause exists to modify the Scheduling Order to continue the discovery deadline
14 and pre-trial deadlines. The Parties were subject to a stay of general discovery until the end
15 of January 2021, have been actively engaged in extensive motion practice regarding
16 amendments to the pleadings, are currently awaiting the Court's ruling on a motion that
17 will add parties who will need to be served and materially impact discovery, and have been
18 pursuing formal and informal discovery since the Court lifted the stay.

19 Given the procedural posture of the case, the Parties request the Court modify the
20 Scheduling Order to continue the discovery and pre-trial deadlines in accordance with the
21 following agreed upon schedule. The current deadlines in the Scheduling Order are:

- 22 (1) Expert Disclosure Deadline: September 3, 2021;
- 23 (2) Expert Rebuttal Disclosure Deadline: October 4, 2021;
- 24 (3) Discovery Deadline: November 5, 2021;
- 25 (4) Dispositive Motion Deadline: December 6, 2021; and
- 26 (5) Pre-Trial Deadline: January 5, 2022.

27 The Parties have stipulated and agreed to the following modification to the Scheduling
28 Order to accommodate the pending Motion to Amend:

- (1) Modified Expert Disclosure Deadline: January 6, 2023;
- (2) Modified Rebuttal Disclosure Deadline: February 10, 2023;
- (1) Modified Discovery Deadline: April 7, 2023;
- (2) Modified Dispositive Motion Deadline: March 12, 2023; and
- (3) Modified Pre-Trial Deadline: July 14, 2023.

This modification and extension will allow the Parties to complete discovery and motion practice amongst themselves, to address the service of the amended complaint, and to begin and complete pleading motions, dispositive motions and discovery with the newly added parties.

IV. CONCLUSION

For these reasons, the Parties stipulate and jointly motion the Court to modify the Scheduling Order to continue the discovery deadlines and all pre-trial deadlines.

DATED: October 13, 2021

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DATED: October 13, 2021

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1 DATED: October 13, 2021

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14 **Order**

15 IT IS ORDERED that ECF No. 229 is DENIED without prejudice. The Court is unsure
16 whether the parties intentionally stipulated to extend discovery deadlines into 2023
17 or whether there was a typographical error. The Court is not inclined to extend
18 discovery deadlines into 2023 absent exceptional circumstances demonstrating
19 good cause. But if the parties are requesting to extend discovery deadlines into
20 2022, based on the reasons provided in this stipulation (ECF No. 229), the Court is
21 inclined to find good cause.

19 **IT IS SO ORDERED**

20 **DATED:** 2:54 pm, October 14, 2021

21 

22 **BRENDA WEKSLER**
23 **UNITED STATES MAGISTRATE JUDGE**

CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2021, the foregoing **STIPULATION AND JOINT MOTION TO MODIFY THE SCHEDULING ORDER AND TO CONTINUE DISCOVERY DEADLINES AND RELATED PRE-TRIAL DATES** was served on the person(s) named below via the Court's electronic filing system:

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